THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 21661 of 2005

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Dated: 07-10-2005.

Between:

Meddi Reddy, Srinivasa Reddy S/o. M. Venkat Reddy,
R/o. Putrela Village Vissannapeta Mandal
Krishna District.

..... PETITIONER

AND

The Joint Collector,
Krishna District, Machilipatnam, and another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No. 21661 of 2005

ORDER:

The petitioner seeks a writ in the nature of writ of Certiorari to quash the proceedings of the first respondent dated 29.08.2005. In exercise of the powers under Section 9 of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 ('the Act' for brevity) read with Rule 23(3) of the A.P.Rights in Land and Pattadar Pass Books Rules, 1989, the first respondent, by impugned proceedings, cancelled the entries in the Pattadar Pass Book/Title Deed (PPB/TD) bearing No.328746 against Khata No.250 issued in favour of the petitioner for the lands in R.S.Nos.277/10, 277/11, 277/12 & 305/12 of Mallela Village, Tiruvuru Mandal, Krishna District.

The case of the petitioner in brief is as follows. The petitioner purchased an extent of Acs.9.90 cents in various survey numbers referred to hereinabove (hereinafter called 'the subject land') under four registered sale deeds from Janyavula Venkateswara Rao, Janyavula Radha Krishna Murthy, Janyavula Sumanth Kumar and Janyavula Raghava Kumari. The sale deeds are dated 03.06.1993 and 02.02.1995. The petitioner alleges that his vendors were pattadars of the erstwhile Zamindar and after abolition of the estates, the vendors were given pattas under the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948, and therefore, the sale by them in his favour is valid. The petitioner further states that after purchase of the land, on his application, the second respondent conducted an enquiry and issued PPB/TD bearing No.328746 vide Khata No.250 and his name is entered in the revenue records from 1996-97. The first respondent initiated proceedings under the provisions of the Act for cancellation of PPB/TD and issued a notice dated 19.04.2005. The petitioner submitted an explanation on 31.05.2005, and after considering the same, the first respondent passed impugned orders cancelling the entries in the record of rights.

A reading of the impugned order reveals that the subject land was assigned to the vendors of the petitioner in 1970 by issuing D-Form pattas. After assignment of the land, complaints were received that all the assignees are family members of Sundara Rao, that they are not Sivaijamadars and that they are not residents of Tiruvuru Village. Therefore, the Sub-Collector enquired into the matter and issued show cause notices to the assignees. As they were not in the Village, notices could not be served compelling the revenue authorities to affix the notices to the polls. As no explanations were received, the Sub-Collector cancelled the assignment of those four persons by proceedings dated 04.10.1989, and the Mandal Revenue Officer

was directed to submit proposals for fresh assignment to eligible beneficiaries. The land, however, could not be assigned afresh and it vested in the Government. At that stage, the Mandal Revenue Officer noticed that the petitioner got the sale deeds registered in respect of the Government land in Survey Nos.277 and 305. The Mandal Revenue Officer, Tiruvur Mandal, sent a report on 02.03.2005 to the effect that the petitioner purchased the said land under the registered sale deeds by fraudulent means and obtained PPB and TD.

Initiating *suo motu* action under Section 9 of the Act, the Joint Collector issued notice to the petitioner, who filed explanation and appeared through his advocate. It was contended before the District Collector that Janyavula Venkateswara Rao and others were granted pattas by Zamindar, that after the death of Janyavula Sundara Rao, those persons inherited the property and the petitioner purchased the land for valid consideration and raised mango garden. The first respondent considered the matter with reference to the revenue records and found that in the fair adangal of Mallela Village, the subject land, was recorded and classified as Unassed Waste (UAW), that Mallela, an estate Village was taken over by the Government on 07.09.1950 under the Estates Abolition Act and as per the registers prepared under the said Act, the subject land belongs to Government. He also noticed that during 1970 the classification of the land was changed to Assed Waste Dry (AWD) to render it assignable land and Janyavula Sundara Rao, who was working at Taluk office of Tiruvuru, obtained D-Form patta by misrepresentation in the name of his family members. For these reasons, the first respondent rejected the contention of the petitioners that the land is a Zamindari land in respect of which his vendors were granted pattas. The Joint Collector noted that as per Section 12 of the Act, the lands belonging to the State Government and Central Government do not fall within the purview of the provisions of the Act, and accordingly cancelled the entries in the PPB/TD.

The learned counsel for the petitioner, Sri.C.B.Ram Mohan Reddy, submits that the inordinate delay in exercising suo motu powers under Section 9 of the Act renders the impugned order illegal. Secondly, he would submit that the petitioner's vendors obtained pattas under Estates Abolition Act, and therefore, after long lapse of thirty years, the first respondent cannot rely on the entries in the revenue records to come to the conclusion that it is UAW Government land. He placed reliance on the decisions of this Court in **Sri Bhavanarishi Co-operative House Building Society v. Joint Collector, R.R.District, Habeeb Yahiya v. Government of A.P.** and **B.Pushpamma v. Joint Collector, R.R. District.**

It is well settled that when power is conferred under the statutory authority, in the absence of any limitation as to time on the exercise of such power, the power has to be exercised within the reasonable time. The underlying principle is that if a statutory authority exercises power and unsettles the settled things, the same might cause prejudice to those persons whose rights are crystalised. A reference may be made to **State of Gujarat v. Patil Raghav Natha, Hindustan Times v. Union of India,** and **C.Subhash Mudiraj v. Regional Joint Commissioner, Endowments Department, Hyderabad** . However, when a particular benefit is obtained by playing fraud or misrepresentation, the principle has no application. In **Re P.Shyam**

Rao, this Court considered this aspect of the matter and laid down as under.

> Where no innocent third party interests have crept in, and where nature of fraud or misrepresentation is so glaring and patent crying out for judicial correction, and where assignee himself was privy to the fraud, it becomes the duty of the authority to take action immediately the moment fraud is detected and discovered. It is for that reason the statute gave power without reference to any time limit…. The theory of arbitrary cancellation and the improper exercise of jurisdiction, are all in my opinion, in applicable to a case of this nature.

In this case, it is revealed that Janyavula Sundara Rao, who was working in Taluk office Tiruvuru, misrepresented and got the lands assigned to his family members, though the land is shown in the revenue records as well as Estates Abolition of Records as UAW. In such an event, even if there is inordinate delay on the part of the first respondent in exercising suo motu power of revision under Section 9 of the Act in cancelling the entries in PPB/TD, the exercise of power is not vitiated. In the absence of any proceedings before this Court under the Estates Abolition Act, it is not possible to accept the contention of the petitioner's counsel. By reason of the sale deeds obtained by him, petitioner is allegedly in possession of the property. If he claims better title over the Government, it is always open to the petitioner to approach the Civil Court for declaration of title, in which event, the Civil Court has to consider the entire evidence that may be brought on record and decide the matter, without being influenced by observations made hereinabove. In this writ petition, no relief can be granted to the petitioner.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

07-10-2005

vs